

**REMARKS**

All pending claims stand rejected in the final Office Action dated September 18, 2006. The Examiner states that the finality of this Office Action is necessitated by Applicant's amendment. Applicant respectfully traverses this finality for the following reasons.

- i. The Taylor reference (U.S. Pat. No. 4,588,629), which forms the basis for the Examiner's anticipation rejection of independent claim 1 and a number of dependent claims and which is the primary reference in the Examiner's obviousness rejection against the only other independent claim 62 and the other dependent claims was cited in an Information Disclosure Statement as cite no. "BR" submitted when the present application was first filed. The Taylor reference was previously considered and initialled by the Examiner.
- ii. The relevant wording in both independent claims, discussed in detail below, that distinguishes the independent claims from Taylor were included in these independent claims as originally filed.

Hence, Applicant's amendments could not have necessitated the new ground(s) of rejection. Applicant respectfully requests that the finality of this Office Action be withdrawn.

Alternatively, the current arguments, terminal disclaimer and remarks put the present application in form for allowance. Hence, this Response is proper, and Applicant respectfully requests its entry and consideration.

Claims 1-22 and 38-62 remain in the present application for the Examiner's review and consideration. Claims 23-37 were previously withdrawn from consideration with the present application, and method claims 63-67 directed to a non-elected embodiment were previously canceled. No claim is amended in this Response.

Claims 1, 6-9, 19, 20, 22 and 38-41 are rejected under 35 U.S.C. § 102(b) as being anticipated by the Taylor reference.

Claims 2-5, 10-18, 21, 42, 51-59 and 62 are rejected under 35 U.S.C. § 103 as being obvious over a combination of the Taylor reference and the Gillette publication (US Pat. Pub. No. 2003/0232170).

Claims 43-47 are rejected under 35 U.S.C. § 103 as being obvious over a combination of the Taylor reference and the Makansi reference (U.S. Pat. No. 5,882,770).

Claim 48-50 are rejected under 35 U.S.C. § 103 as being obvious over a combination of

the Taylor reference and the Addie reference (U.S. Pat. No. 3,924,040).

Claims 60-61 are rejected under 35 U.S.C. § 103 as being obvious over a combination of the Taylor reference, the Gillette reference and the Kirayoglu reference (U.S. Pat. No. 4,442,161).

Claims 1 and 62 are the remaining independent claims.

Claim 1 recites, as originally filed and as currently presented, among other things “*the fibers on the outer surface of the fibrous outer layer in the elevated areas are substantially unbonded to the adhesive layer.*” The Taylor reference discloses an embossed flock material. Each fiber in the flock material must be bonded or anchored to the adhesive layer, or else the unbonded fibers would fall off of the flock material. *See* Taylor at column 6, lines 30-43. (“The fibres may, however, most conveniently be applied shortly after the thermoplastic material leaves the die head, so that it is still tacky...The fibre[-s are] preferably lightly brushed or rolled to give sufficient adhesion.”) Hence, *all the fibers* in the flock material of Taylor including the fibers in the elevated areas are bonded to adhesive layer. Claim 1, as currently presented, claims otherwise. Hence, claim 1 is patentable over the Taylor reference.

Claims 2-22 and 38-61 depend on claim 1 and recite further limitation therefrom. Hence, these claims are presently allowable, and it is unnecessary to address the Examiner’s averments as to the teachings of the prior art or the rationale for combining prior art at this time. However, Applicant reserves the right to further support their patentability should that becomes necessary.

Independent claim 62 recites, as originally filed and presently presented, among other things “*within the elevated areas the fibers of the fibrous outer layer form loops upstanding from the adhesive layer.*” The Examiner agrees that the “disclosure of Taylor is silent as to ... the creation of loops upstanding from the adhesive layer. (Office Action 9/18/2006 at para. 3)<sup>1</sup>. However, the Examiner asserts that claim 1 of the Gillette publication discloses loops upstanding from the adhesive layer. (Office Action dated 9/18/2006 at para. 3.a). Applicant respectfully traverses this rejection.

First, claim 1 of the Gillette publication did not mention adhesive. This portion of the Gillette publication only states that “a plurality of loop structures formed by entangling a plurality of non-interbonded fibers in a fibrous web of material.” The Gillette reference further

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<sup>1</sup> In that same sentence, the Examiner also states that Taylor is silent as to the use of spunlaced fabrics as a facing layer. Applicant assumes that this statement relates to the other rejected claims mentioned in this paragraph, since claim 62 does not recite spunlaced fabric.

explained in paragraph [0016] the process for forming such loop structures. This process entails the step of directing one or more jets of high-pressure water at the fibrous web to entangle the non-interbonded fibers, as shown in Figure 2 of Gillette. No adhesive is involved in the creation of these loops and these loops are not upstanding from any adhesive.

Hence, a hypothetical combination of Taylor and Gillette still does not have all the elements of claim 62. Hence, claim 62 is patentable over the Taylor and Gillette.

Claims 1-22 and 38-62 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 41-54 of copending, parent Application No. 10/307,186 for the reasons given in paragraph 7 of the final Office Action. An executed Terminal Disclaimer is submitted to remove this rejection. A fee of \$65 under 37 C.F.R. 1.20(d) is submitted herewith for the Terminal Disclaimer.

Applicant submits that all claims are now in condition for allowance, early notice of which is respectfully requested. Since claim 1 is presently allowable and remains generic to withdrawn claims 23-37, consideration of the withdrawn claims is earnestly requested.

No fees are believed due for the submission of this amendment other than the fees discussed above. Should any additional fees in fact be due including for an extension of time, please charge such fees to Deposit Account No. 50-1980.

Respectfully Submitted,

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